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TO: P - Mr. Newsom

FROM: NEA - Peter Constable

SUBJECT: Renewal of U.S.S. Liberty Negotiations

ISSUE

Whether to pursue actively the U.S. claim for compensation for Israeli-inflicted damages to the U.S.S. Liberty.

BACKGROUND:

The U.S.S. Liberty was attacked by Israeli air and naval units on June 8, 1967. The attack caused extensive damages to the ship killed 34 Americans and wounded many more. The Government of Israel discharged fully the claims of individuals, plus a small U.S. Government claim arising form this incident. Still unresolved is the question of a U.S. claim for compensation of approximately $7 million for physical damage to the vessel. After initially pressing a claim until 1971, we did not again pursue this claim until 1974-5. When we did raise the claim the Israelis only offered to pay a nominal sum which we rejected. In May of 1978 the

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Israeli Government indicated however that Israel would be ready to negotiate a settlement. The Department of Navy collected and prepared documents and we were ready to pursue the case, when the Government of Israel requested a change of venue from Jerusalem to Washington and a postponement until early in 1979 and the arrival of the newly-appointed Ambassador, Ephraim Evron. Ambassador Evron was a Minister at the Israeli Embassy at the time of the Liberty incident and is thoroughly acquainted with events. We agreed to the change of location and the postponement. After the arrival of Ambassador Evron in 1979 the peace talks eclipsed the negotiations on the U.S.S. Liberty.

At this time we need to examine the pros and cons of the various possibilities to for finally resolving this issue. The basic choices facing us are whether (1) to allow the matter to continue to lay dormant, (2) to accept the Israeli offer nominal payment, (3) to inform the Israelis that we will write off the loss totally, (4) to initiate full-scale negotiations with the Israeli-inflicted damages to the U.S.S. Liberty or (5) to present the Israelis a realistic claim and pursue full payment of the adjusted claim.

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1) Allow the Matter to Lay Dormant

During the 11 years since the attack on the Liberty, the issue has not died because of interest on the part of various individuals and certain Congressmen and because we are legally required to inform the Congress annually of outstanding claims against a foreign government. If the issue remains unresolved, it may be raised unexpectedly at any time to Israel's disadvantage and thus interfere with U.S.-Israeli relations.

2) To Accept a Token Payment

We have previously refused to accept a token payment from the Israelis largely because of public pressure for just compensation. Moreover, we recently settled an outstanding claim with Egypt for $1.05 for the dollar of claim and Egypt is a high U.S. Aid recipient, with an economy in shambles and a much lower per capita income than Israel.

However, the Liberty has been scrapped and no amount of payment will salvage the vessel. In addition eleven years, during many of which we did not pursue our own claim, have passed. Advances in technology and inflation have made our original claim almost meaningless.

3) To Write Off the Claim

The U.S. could write off the obligation, not as a bad debt, but as one which is also in our interests to write off. Basically U.S. interests are in maintaining a stable peace process, in pursuing consistently the logic of our economic assistance to Israel and at the same

time to recognize the Israeli responsibility for the attack. The principal factors against writing off the claim would be Navy desire to recoup its money and the possibility of a public and Congressional impression that we are absolving Israel of responsibility for its actions. Also it would establish a precedent of presidential power to write off a claim.

4) To Pursue the Claim Vigorously

We can pursue the claim vigorously and/probably we would receive an adjusted amount. The factors mitigating for a negotiated settlement are (1) public pressure and perception of attack as unprovoked and unfair, possibly even intentional (2) Israel's desire to pay its just debts; (3) the Navy ability to receive any payment in settlement for its for account (4) precedent established by claim settlement with Egypt.

← Factors against a full scale negotiation include the cost to the taxpayer to recoup the loss when the cost of the time and manpower required is considered. Also despite the Egyptian precedent it is inconsistent to require payment from Israel on the one hand and give assistance to improve the Israeli economy on the other. The amount of the claim ($7.6 million) is inconsequential compared to the overall amount of U.S. assistance ($1.8 billion) given Israel annually.

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5) To Settle an Adjusted Claim

The Department, after consultations with the Navy and Ambassador Evron, should be able to reach informally an adjusted claim which will be sufficient to recognize Israeli responsibility and yet small enough that Israel will be able to pay the claim in its entirety without undue stress on the Israeli economy. This has the advantage of eliminating the need for negotiations between two friendly nations on a potentially time-consuming and contentious issue, of compensating the Navy, of allowing Israel to pay the full amount of the formal U.S. claim, and of satisfying the public and the Congress.

The disadvantages of this approach are marginal. It is in our interest to resolve this issue.

Recommendation

That we settle this issue in a prompt and diplomatic fashion by presenting Israel, after informal negotiations with the Navy and with Ambassador Evron, a realistic claim that they can pay in full.

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DAK/JC

Senator Stevenson is planning to read a statement into the record tomorrow on the U.S.S.Liberty. This wuuld be during the Senatre Foreign Assistance Appropriation Bill, which includes Assistance to Israel. It will be a comment on U.S. Israeli Relations and from the nature of the questions I wouldsay that Stenenson is not favorably disposed.

Adlai

MMD

Let's move on Liberty appropriation.

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